



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 3677

In Re Application of: Blyth S. Biggs

Serial No.: 10/654,779

Filed: 09/04/2003

For: Utility Tool Handle

Examiner: Andr'e L. Jackson

2790 Wrondel Way, PMB 36  
Reno, NV 89502  
(775) 826 - 3427

November 28, 2005

MS: FA  
Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

AMENDED NOTICE OF APPEAL AND ALTERNATIVE PETITION

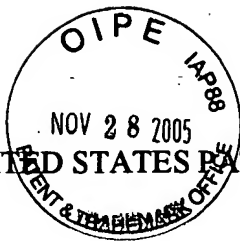
The Applicant respectfully submits this amended notice of appeal and alternative petition to amend the notice of appeal to include all claims as finally rejected, namely Claims 1, 2, 3, and 4.

Due to a typographical error claim 4 was not originally listed in the Notice of Appeal as originally filed.

If a fee is required, it may be charged to Deposit Account 190720.

Respectfully.

Herbert C. Schulze  
Applicants' Attorney



11-29-05

AF/2FW

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**BRIEF ON APPEAL**

**(1) REAL PARTY IN INTEREST**

The real party in interest is the Applicant Blyth S. Biggs.

**(2) RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

**(3) STATUS OF CLAIMS**

The Applicant herewith withdraws Claims 2 and 3 from the Appeal, leaving Claims 1 and 4, the only pending claims, both have been finally rejected.

**(4) STATUS OF AMENDMENTS**

There are no amendments pending, except for an amendment to notice of appeal which is Submitted herewith to correct an obvious typographical error in the notice of appeal

wherein one claim, claim 4, was not listed in the original notice of appeal. However, it

was clearly the desire of the applicant to appeal from all claims as rejected. There is, also, submitted herewith an Alternative Petition to amend the Notice of Appeal to include Claim 4 in the Notice of Appeal.

**(5) SUMMARY OF INVENTION**

This invention is directed to the features of a utility handle for hand tools such as mops, rakes, hoes, and the like.

The handle is an elongate utility and ergonomically friendly handle featuring 1) a first straight segment carrying a hand grip; 2) a second curved segment depending from the first straight hand hold segment; 3) a third straight segment depending from the second curved segment and carrying a hand grip; and 4) a fourth straight segment carrying tool attachment means.

The unique combination of a minimum number of segments, serves a specific purpose of creating a configuration which allows either the right hand or the left hand to grip the first straight hand hold position in a configuration such that whichever hand is used on it will have a specific maximum directional pulling force with relation to the facing direction of the person using the handle and tool. Additionally, the pulling on this handle will have a natural tendency to exert downward pressure on the tool attached to the end of the handle.

In this configuration the opposite hand (left or right) will grip the third straight (hand hold) segment in such manner that the maximum downward pressure will be exerted by the tool at the end of the fourth straight segment.

## **(6) ISSUES PRESENTED FOR REVIEW**

The issues presented for review are:

**Issue Number 1:** Does Blessing anticipate a utility tool handle as defined in Applicant's Claim 1?

**Issue Number 2:** Does Blessing anticipate a utility tool handle as defined in Applicant's Claim 4?

## **GROUPING OF THE CLAIMS**

Group 1, claim 1.

Group 2, claim 4.

The claims do not stand or fall together as claim 1 recites a series of geometric elements defining a tool handle, while claim 4 recites only a handle which causes specific results in use.

## **(7) ARGUMENT**

The applicant respectfully submits that the claims do not stand or fall together. The applicant believes the separation of the two claims into two groups is appropriate. The claims are patentably distinct in that an infringement of claim 1, would not necessarily be an infringement of claim 4 and an infringement of Claim 4, would not necessarily be an infringement of Claim 1.

The applicants support their position that the claims should be allowed on the Issues Presented For Review as follows:

### **Issue Number 1:**

**Does Blessing anticipate the invention of Claim 1?**

The Applicants respectfully submit that Blessing does not show the limitations and structure of claim 1. Specifically, the following comparison of the elements of the applicant's

claim 1 and Blessing's Fig. 11 (which is specified in the final rejection) show the wide disparity of the elements:

**Applicant Claim 1**

(1) A first straight segment covered by a first hand grip; (2) a first curved segment depending from said first straight segment; (3) a second straight segment depending from said first curved segment; (4) a second curved segment depending from said second curved segment; (5) a third straight segment carrying a hand hold and depending from said second curved segment; (6) a third curved segment depending from the third straight segment; and (7) a fourth straight segment depending from the third curved segment and (8) utility tool tool attachment means carried by said fourth straight segment.

**Blessing Fig. 11** (Specifically cited as anticipating the present applicant)

(1) A first straight segment with a hand hold is at the far left; (2) a second straight segment depends at a 90 degree angle from said first straight segment; (3) a third straight segment depends at an obtuse angle from said second straight segment; (4) a fourth straight segment depends from the third straight segment at an obtuse angle; (5) a fifth straight segment depends from the fourth straight segment at a 90 degree angle; (6) a sixth straight segment depends from the fifth straight segment at a 90 degree angle; (7) a seventh straight segment depends from the sixth straight segment at an obtuse angle (a hand hold covers most of the fifth, sixth, and seventh straight segments; and (8) an eighth straight segment depends from the seventh straight segment terminating with tool attachment means.

It is understood that the Examiner interprets the two 90 degree offsets as "U" shaped "curved segments". This difference in interpretation by different persons seems to, in itself, indicate that blessing did not anticipate the present Applicant.

In all of the blessing illustrations and language it is apparent that Blessing uses two parallel hand holds. This is instantly understood by reference to Blessings Figs. 1, 2a, 2b, 4a,

and 4b. These parallel hand holds (a cursory view of Figs. 2b and 4a may appear to be contradictory, but they are not when viewed in context with all of the views showing a person and a person's hands). Thus, the Blessing structure becomes approximately the equivalent of a common straight tool handle. The action resulting is that of any ordinary straight shovel or hoe or the like.

The applicant, however, has arranged his handholds in such a configuration they are essentially at a ninety degree relation to each other and in the same plane. When the applicant connects the various elements of his handle he does so through true curves and the result is cooperative action of the hands to exert maximum power as is more specifically set forth in connection with Issue number 3, below.

**Issue No. 2:**

**. Does Blessing anticipate the invention of Claim 4?**

The applicant respectfully believes that Blessing cannot anticipate Claim 4.

**Applicant Claim 4:**

A utility tool Handle---- comprising: (1) two elongate straight hand grips and (2) an implement attachment (3) connected by curved segments in such manner that (4) a person having a left hand and arm and a right hand and arm (4) can exert maximum downward pressure on the implement through either the left or right hand (5) while exerting maximum backward pulling pressure through the other hand and arm.

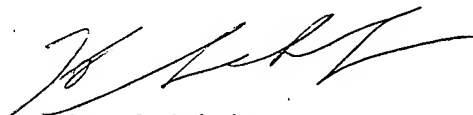
**Blessing:**

It is difficult to analyze Blessing since there are so many Figs. yet the same Fig. numbers are used repeatedly on different items. However, it is believed to be evident from all of the figures that that Blessing, in all of the variations, comprises a lengthy series of straight segments. It is recognized that the Examiner has interpreted certain 90 degree bends as being curves. However, the applicant contends that these cannot be considered curves in any manner

accomplishing the advantages of the applicant's curves. A ninety degree bend merely joins two straight segments.

The importance of the difference between the applicant's structure and Blessing's is evident by comparing the applicant's Fig. 2 with Blessing's Figs. 1 and 4a. In the case of the applicant's fig 2 the powerful downward force of the applicant's left hand, shoulder, and arm and the forceful affect of the right arm and shoulder are cooperating to make a maximum downward force on the hoe blade while creating a powerful force pulling on the blade by the action of the right arm and shoulder. Comparing this to Blessing's Figs. 1 and 4a, it is believed that one will readily see the comparative ineffective application of forces by the hands and arms shown on the Blessing Figs. and the apparent lack of effective should power.

Respectfully.

A handwritten signature in black ink, appearing to read 'H. C. Schulze', with a stylized flourish at the end.

Herbert C. Schulze  
Applicants' Attorney

**(9) APPENDIX (THE CLAIMS ON APPEAL)**

**Claim 1:** A utility tool handle comprising: a first straight segment covered by a first hand grip; a first curved segment depending from said first straight segment; a second straight segment depending from said first curved segment; a second curved segment depending from said second straight segment; a third straight segment depending from said second curved segment; a second hand grip carried by said third straight segment; a third curved segment depending from said third straight segment; a fourth straight segment depending from said third curved segment; and utility tool attachment means carried by said fourth straight segment.

**Claim 4:** A utility tool handle for working the ground with an implement carried by the handle comprising: two elongate straight hand grips and an elongate implement attachment connected by curved segments in such manner that a person having a left hand and arm and a right hand and arm can exert maximum downward pressure on the implement through either the left or right hand and arm while exerting maximum backward pulling pressure through the other hand and arm.